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**1 - EPA pollution meeting yields sharply different views, Dallas Morning News, 11/8/13**

<http://www.dallasnews.com/news/community-news/dallas/headlines/20131107-epa-pollution-meeting-yields-sharply-different-views.ece>

In the auditorium of the J. Erik Jonsson Central Library on Thursday, and in a separate space opened to accommodate the overflow, the two sides on the issue of controlling carbon pollution and greenhouse gases in Texas were unmistakable. Call them T-shirts and suits. The folks in the suits represented the coal industry, power companies, business groups and unions, along with some elected officials. Set guidelines, they told officials from the federal Environmental Protection Agency, but let the states handle the details.

**2- At Texas listening session, agency urged to balance economy and regulation, E&E News, 11/8/13**

<http://www.eenews.net/energywire/2013/11/08/stories/1059990180>

U.S. EPA's rules on power plant emissions could both help and hurt Texas, which is a major emitter of pollution that contributes to climate change and home to people who have suffered from decades of air pollution, speakers said at a meeting here.

**3 - EPA To Release Air Pollution Guidelines, North Texas Groups Weigh In, KERA, 11/8/13**

<http://keranews.org/post/epa-release-air-pollution-guidelines-north-texas-groups-weigh>

The Dallas County Medical Society is backing a group rallying for strict EPA air pollution guidelines.

A hearing was held in Dallas Thursday as the EPA prepares to release its first-ever set of guidelines to reduce carbon pollution from power plants.

**4 - Editorial: EPA reports good news on emissions, El Paso Times, 11/7/13**

[http://www.elpasotimes.com/letters/ci\\_24474986/editorial-epa-reports-good-news-emissions](http://www.elpasotimes.com/letters/ci_24474986/editorial-epa-reports-good-news-emissions)

The country's greenhouse gas emissions have been dropping significantly. Get excited. But not too excited.

The Environmental Protection Agency reported last month that the greenhouse gas output from power plants, the nation's biggest emitters, dropped by an astounding 10 percent between 2010 and 2012. Last year alone, greenhouse emissions over the whole economy declined by 4.5 percent. In a separate report, the Energy Information Administration noted that the recent progress on emissions came even as the economy and the population grew. The country has been using less energy to produce more wealth and, in the process, is producing fewer emissions.

**5 – Keystone Activists Greet Obama in Dallas, Environmental Protection, 11/7/13**

<http://eponline.com/articles/2013/11/07/keystone-activists-greet-obama-in-dallas.aspx>

Activists met President Obama yesterday as he arrived at a fundraiser in Dallas, to call on him to reject the Keystone XL tar sands pipeline. President Obama has set a climate test for the pipeline, saying that he would only approve it “if this project doesn’t significantly exacerbate the problem of carbon pollution.”

**6 - Louisiana Permits Coal Terminal Adjacent To \$300M Wetlands Restoration Project, Climate Progress, 11/7/13**

<http://thinkprogress.org/climate/2013/11/07/2901481/louisiana-coal-terminal-restoration/>

On Friday, President Obama is set to deliver a speech in New Orleans on the need to “grow the economy and create jobs by increasing our exports.” And despite issuing an executive order earlier this month to help communities prepare for climate change, Obama is not expected to address the fact that another coal export terminal is on track to be built in the fragile region.

**7 - EPA's abandoned Wyoming fracking study one retreat of many, Boulder Weekly, 11/7/13**

<http://www.boulderweekly.com/article-11919-epas-abandoned-wyoming-fracking-study-one-retreat-of-many.html>

When the Environmental Protection Agency abruptly retreated on its multimillion-dollar investigation into water contamination in a central Wyoming natural gas field earlier this year, it shocked environmentalists and energy industry supporters alike.

**8- Industry Cautions EPA Against Overreach In Existing Power Plant GHG Rule, E&E News, 11/7/13**

<http://insideepa.com/201311072452203/EPA-Daily-News/Daily-News/industry-cautions-epa-against-overreach-in-existing-power-plant-ghg-rule/menu-id-95.html>

Industry groups are broadly warning EPA not to go too far when it proposes a rule next year to set performance standards to limit greenhouse gases (GHGs) at existing power plants, with some telling agency officials at a Nov. 7 "listening session" in Washington, D.C., to avoid rules that stifle the coal industry.

**9 – Facing Inaction By Congress, Oklahoma AG Turns To Courts To Curb EPA, Inside EPA News, 11/6/13**

<http://insideepa.com/Inside-EPA/Inside-EPA-11/08/2013/facing-inaction-by-congress-oklahoma-ag-turns-to-courts-to-curb-epa/menu-id-67.html>

Oklahoma Attorney General Scott Pruitt, a vocal critic of EPA on several fronts, is using litigation to attempt to curtail the agency's actions as Congress has stalled on some of his priority measures, such as easing states' ability to intervene in some court settlements setting deadlines for EPA rules and curbing regulation of greenhouse gases (GHGs).

**10 - . EPA should accept recent CAFO stormwater ruling -- Vitter), E&E News, 11/6/13**

<http://www.eenews.net/eedaily/2013/11/06/stories/1059990042>

U.S. EPA should accept a recent federal court decision that found it could not regulate stormwater runoff stemming from a poultry operation in West Virginia, the Senate Environment and Public Works Committee's top Republican told the agency yesterday.

**11 – States file brief against EPA rules, E&E News, 11/7/13**

<http://thehill.com/blogs/regwatch/court-battles/189650-states-file-brief-against-epa-rules>

Nine states are lining up against the Obama administration in an upcoming Supreme Court case over contentious environmental regulations. The states filed a friend of the court brief with the high court on Thursday to oppose the Environmental Protection Agency's (EPA) attempt to regulate power plant emissions that cross state lines.

**12 – The EPA coal war comes to Dallas, Dallas Business Journal, 11/7/13**

<http://thehill.com/blogs/regwatch/court-battles/189650-states-file-brief-against-epa-rules>

Residents from towns with Luminant coal plants flocked to the J. Erik Jonsson Central Library Thursday to plead with the Environmental Protection Agency not to impose regulations that would shut down the mining and plant operations.



# EPA pollution meeting yields sharply different views

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By MICHAEL E. YOUNG  
Staff Writer  
[myoung@dallasnews.com](mailto:myoung@dallasnews.com)  
Published: 07 November 2013 11:28 PM  
Updated: 08 November 2013 02:13 AM

In the auditorium of the J. Erik Jonsson Central Library on Thursday, and in a separate space opened to accommodate the overflow, the two sides on the issue of controlling carbon pollution and greenhouse gases in Texas were unmistakable.

Call them T-shirts and suits.

The folks in the suits represented the coal industry, power companies, business groups and unions, along with some elected officials. Set guidelines, they told officials from the federal Environmental Protection Agency, but let the states handle the details.

The T-shirt crowd — with shirts provided by the Sierra Club — urged the EPA to impose much tougher restrictions on electric generating plants, particularly those powered by coal. In coal’s place, they listed solar and wind power as alternatives.

With the two sides staked out on the edges at what the EPA called “a public listening session” on future regulations for existing power plants, there was little middle ground to be found.

Ron Curry, regional director for the EPA in Texas and adjoining states, called reducing carbon emissions from existing plants “a very important effort” and crucial to the nation’s environment.

“Climate change is a real threat to our country,” he said, “and not just a threat for the future. It’s happening now.”

For evidence, he pointed to temperatures in 2012, the warmest on record in the U.S., and 2011, a record-setter in Texas, and said climate change will bring more wildfires, drought, worsening smog and even West Nile virus.

“It’s going to take a broad and concerted effort from all levels of government. But make no mistake, we cannot delay,” Curry said. “We can face the challenge of climate change if we work together.”

But during the rapid-fire session — speakers were given just two minutes to make their points — there was little consensus.

Those representing coal and mining interests, power companies and business interests warned that tampering with the current system, which relies on coal and older natural gas plants for 40 percent of the state’s electric supply, would raise retail prices, lead to significant job losses and potentially disrupt the Texas economy.

Their opponents cited health problems, especially among the very young and very old, and climate change as major issues that need a remedy from the EPA.

“We need bold action to protect our environment and our communities,” said Sarah Hodgdon, national program director for the Sierra Club. “Put in place the strongest possible regulations for coal and [natural] gas plants.”

Sally Garcia of Dallas recalled the ’70s, when she moved to town, with “blue skies every day.”

“Now you can’t go out in the summer,” she said. “And in Texas, the carbon industry owns the state, so they always get their way.”

State Rep. David Simpson, who represents the 7th District in East Texas, said the state has made strides in improving its generating plants and urged the EPA to avoid rushing to make more rules.

“There is no statutory timeline here,” Simpson said. “We could well make a rule, even well-intended, that does much harm to the environment.”

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Bill

2 hours ago

This is so typical with the Big Busuiness bunch (Suits) who stick their head in the ground and the people that want action to protect their health (T-Shirts). I have been watching this for years and everytime there is a meeting such as this, the " suits" say it is un-neccessary to make changes in coal use, power plant modifications, things to improve living conditions and the the EPA don't know what they are talking about. The "T-shirts" are the enlightened ones and can see what this world is coming to. They don't conditions like China and they don't want everyone to have to ware a face mask due to the polution which the "suits" are trying to protect. Face it the "swuits" just don't want to have to spend money from their bulging pockets to put corrections in use. They only think how they can make more monry for themselves and to heck with the public and their health.

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# ENERGYWIRE

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## 5. EPA: At Texas listening session, agency urged to balance economy and regulation

Mike Lee, E&E reporter  
*Published: Friday, November 8, 2013*

DALLAS -- U.S. EPA's rules on power plant emissions could both help and hurt Texas, which is a major emitter of pollution that contributes to climate change and home to people who have suffered from decades of air pollution, speakers said at a meeting here.

The agency has already proposed rules to limit greenhouse gas emissions from future power plants and is planning to issue rules for existing power plants in June 2014. The meeting in Dallas was one of 11 listening sessions aimed at gathering input before the proposal is finalized.

More than 100 people spoke, and the crowd of 390 spilled out of a packed auditorium at Dallas' main public library. Environmental and public health groups said EPA should enact tight restrictions to lower the chance of long-term climate change and reduce the health effects that have been linked to coal plant emissions. Utility companies, unions and business owners urged the agency to give states flexibility in adopting rules for older power plants, as a way to protect jobs and local economies.

Texas, which is the biggest U.S. oil producer, gets 35 to 40 percent of its electricity from coal-fired power plants. It emitted more carbon dioxide -- a key contributor to climate change -- than any other state from 2000 to 2010, although its output fell more than 8 percent during that time, according to the Energy Department.

Most of Texas' carbon dioxide emissions come from 19 older power plants around the state, said Tom "Smitty" Smith, executive director of Texas Public Citizen, an advocacy group. He urged EPA to impose strong standards since state regulators haven't acted.

"Since 1990, we've had opportunities to regulate CO2 in the state of Texas and our leadership has failed, even though our responsibility for carbon emissions exceeds that of any other state," he said.

The utility companies urged EPA to put the states in charge of enforcing the new rules and to give them flexibility in applying them to older power plants -- allowing longer timelines to comply with the new rules and taking into account cost and feasibility. The utility companies also urged EPA to avoid rules that would require companies to switch fuel.

Lignite mining indirectly supports 23,000 jobs statewide, speakers said.

"You're pulling everyone into a high-stakes poker game here with the jobs of millions of Americans on the line," said Brian Bond, vice president of external affairs for Southwestern Electric Power Co.

Utility companies also want to get credit for the work they've already done reducing emissions. Luminant, the state's biggest generator, has cut emissions at its plants by 20 percent since 2005 while increasing its coal-fired capacity by 37 percent, said Susana Hildebrand, Luminant's director of environmental policy.



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Whatever EPA eventually decides will have an outsized impact on Texas. Luminant's parent, Energy Future Holdings Corp., is struggling to stave off bankruptcy due to competition from cheaper gas-fired electric plants.

The state has suffered through a record drought and heat wave, and its two biggest cities -- Dallas and Houston -- have worked for years to cope with serious air pollution problems.

Texas' poverty rate is 17 percent, 3 percentage points higher than the national average, and the rate is higher among Latinos and African-Americans, who make up more than half the population. Texans also pay some of the highest electric rates in the U.S., according to the Energy Department, and the state's fast-growing population is straining the utility industry's ability to provide electricity. Any rules that lead to shutdowns of coal-fired plants could result in blackouts and have a disproportionate impact on low-income residents, speakers said.

At the same time, more than 70 percent of African-Americans live in areas affected by air pollution, said Kendrick Casey, a member of a student group from Gulfport, Miss.

"The impact is obvious from the health outcomes," he said.

**EDITOR'S NOTE:** Friday, November 8, 2013 — 8:11 AM

*EnergyWire* will not publish Monday, Nov. 11. It will return Tuesday, Nov. 12.

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EPA To Release Air Pollution Guidelines, North Texas Groups Weigh In

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By COURTNEY COLLINS


The Dallas County Medical Society is backing a group rallying for strict EPA air pollution guidelines.

A hearing was held in Dallas Thursday as the EPA prepares to release its first-ever set of guidelines to reduce carbon pollution from power plants.

Late this summer, the Dallas County Medical Society asked the Texas Commission on Environmental Quality to adopt rules that would reduce pollution from three coal-fired power plants. A physician with DCMS says these plants contribute to high ozone levels, chronic lung disease and asthma in North Texas.


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## Editorial: EPA reports good news on emissions

by The Washington Post

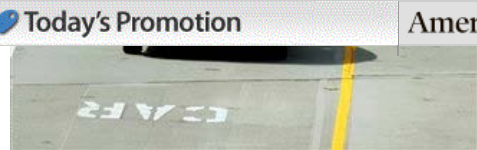
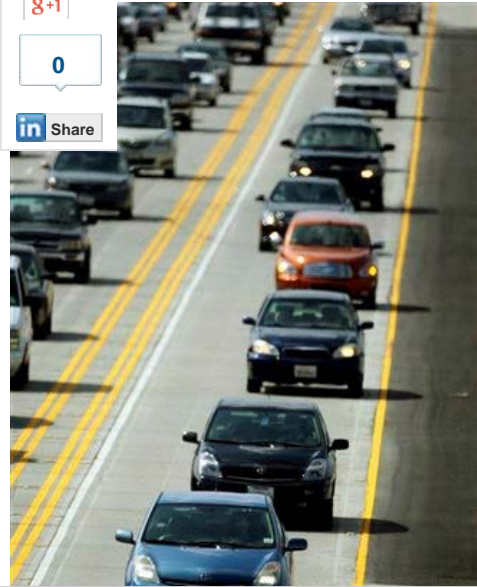
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The country's greenhouse gas emissions have been dropping significantly. Get excited. But not too excited.

The Environmental Protection Agency reported last month that the greenhouse gas output from power plants, the nation's biggest emitters, dropped by an astounding 10 percent between 2010 and 2012. Last year alone, greenhouse emissions over the whole economy declined by 4.5 percent. In a separate report, the Energy Information Administration noted that the recent progress on emissions came even as the economy and the population grew. The country has been using less energy to produce more wealth and, in the process, is producing fewer emissions.

Though they are separate analyses, both reports point strongly to the same conclusions. A primary driver of the emissions dip has been a widespread switch from the burning of coal to the



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burning of natural gas to produce electricity. When combusted, natural gas releases about half the carbon dioxide as does coal. The increasing use of novel drilling techniques — commonly known as fracking — has opened up vast gas plays for production in places such as Pennsylvania and Texas. That has driven domestic natural gas prices down and made switching away from burning coal an economical choice for utilities.

The EIA also noted that the increased use of renewable sources of electricity, especially wind, contributed to the country's decreasing carbon intensity between 2007 and 2012. And the fact that Americans have been driving less and buying more fuel-efficient cars has reduced the burning of carbon-heavy gasoline.

If Congress would finally get the right policies in place, one could imagine a future in which the rise of U.S.-produced natural gas cuts emissions in the short term before giving way to technologies that produce fewer emissions in the long term. That, though, would require both the sort of commitment to addressing climate change that lawmakers have so far failed to demonstrate and a willingness to pass well-designed laws that the political system usually can't muster, even in good times.

So the good news comes with some serious caveats. Fracking requires smart regulation to, among other things, ensure that obtaining and transporting natural gas doesn't produce too many greenhouse gas emissions. Natural gas prices may well rise from 2012 levels, so utilities may switch back to coal to some degree, which would boost emissions. And burning natural gas still produces a significant amount of carbon dioxide, so it isn't a fuel on which the country can rely forever if the nation is to seriously tackle global warming.

The government, then, cannot simply sit back and watch. In the absence of congressional action, the EPA should continue its efforts to place reasonable regulations on fracking and to limit coal burning under the Clean Air Act. And the public should pressure Congress to establish a more coherent long-term plan to move the economy off carbon-dioxide-producing fuels.

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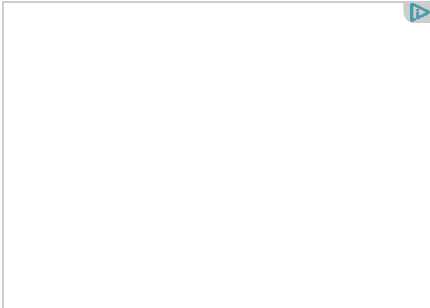


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**Keystone Activists Greet Obama in Dallas**  
*Activists met President Obama yesterday as he arrived at a fundraiser in Dallas, to call on him to reject the Keystone XL tar sands pipeline.*  
• Nov 07, 2013

President Obama has set a climate test for the pipeline, saying that he would only approve it “if this project doesn’t significantly exacerbate the problem of carbon pollution.” As the State Department nears completion of its environmental impact statement on the pipeline, the fight over the pipeline has intensified. State’s draft report erroneously concluded that the pipeline would have no impact on the climate, but independent analysis by the fossil fuel industry, climate scientists, and the EPA shows that the pipeline certainly fails the President’s test.

Activists from Texas Action Coalition for the Environment, 350.org, Sierra Club, Dallas Sierra Club, Tar Sands Blockade, CODEPINK, Veterans for Peace, and Center for Biological Diversity, as well as other local groups, attended the event calling on President Obama to reject the pipeline.

**David Griggs, of the Sierra Club**, said, “Right here in Texas is where President Obama needs to back up his great words on cutting carbon pollution with great deeds. This dirty, dangerous tar sands pipeline won’t do a thing for American energy security, but it will saddle Americans with the risk of spills and force our farmers and ranchers to hand their land and the safety of their water to a Canadian company that selling the dirtiest oil on Earth.”

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**Local activist Susan Turitz Cooper** said, “We rallied today to convince President Obama to reject the Keystone XL pipeline. He must reject it! It offers no benefit for the United States – only catastrophe. KXL would carry the most poisonous fuel ever created. The risk to our public health is indisputable, and risk to our Planet Earth would be cataclysmic. The Keystone XL pipeline must be rejected, because we have only one Planet Earth. We have no other place to live.”

**Aly Tharp, member of the Tar Sands Blockade and**

**Texas Action Coalition for the Environment**, added, “There is great tyranny in the current labeling and shipment of tar sands diluted bitumen as if it’s one-hundred-percent petroleum crude oil. In reality tar sands is a synthetic and highly toxic petroleum slurry that is also tax exempt from the government oil spill cleanup fund. It is certainly not in the interest of the land, water and people of the USA and Canada to approve the northern leg of the Keystone XL pipeline and enable these toxins to pollute our homes and wreck our atmosphere. President Obama has publicly stated that this is the generation that may see the end to the tyranny of oil. We are taking him up on that.”

The fight over the Keystone XL pipeline has energized millions and become a test of the Obama Administration’s commitment to dealing with the climate crisis. In June, 145 former Obama staffers sent a letter to Obama, calling on him to reject Keystone XL, and over 75,000 people have committed to peaceful, non-violent civil disobedience to stop the pipeline from being built.

As part of the largest grassroots movement on an environmental issue in a generation, activists have met President Obama and other members of the Administration at nearly all of their public

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events and demanded that the President keep his promises on climate and reject the permit for the pipeline. To read more about these grassroots activities, [please click here](#).

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# Louisiana Permits Coal Terminal Adjacent To \$300M Wetlands Restoration Project

BY KRISTAN UHLENBROCK ON NOVEMBER 7, 2013 AT 4:12 PM

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On Friday, President Obama is set to deliver a speech in New Orleans on the need to “grow the economy and create jobs by increasing our exports.” And despite issuing an executive order earlier this month to help communities prepare for climate change, Obama is not expected to address the fact that another coal export terminal is on track to be built in the fragile region.

The Mississippi River delta is one of the world’s most complex and rich landscape of wetlands, but decades of increasing industrialization have caused the coastal region to experience massive loss of land in the bayou. Now efforts to try to restore some land through a critical coastal restoration project are up against a coal export terminal with one permit in its pocket and two to go.

**Better** On October 1, the Louisiana Department of Natural Resources issued a coastal use permit for RAM Terminals, LLC to build a coal export terminal on the lower Mississippi River in Plaquemines Parish, the same property as a [\\$300 million coastal restoration project](#) expected to build up to about 50 square miles of land over the next half century. This restoration project is part of Louisiana's [2012 Coastal Master Plan](#) aimed to create more resilient communities and a sustainable coast — although the threat of another coal terminal, which can add heavy metals and toxins to the wetlands from runoff, does not seem compatible with the Master Plan.

The issuance of this permit has led a group of environmental advocates and local residents in Plaquemines Parish, Louisiana to [file a lawsuit against the state Department of Natural Resources](#). The lawsuit charges that the DNR “did not consider potential alternative sites, or fully weigh the considerable, adverse environmental impacts of the project against its questionable economic benefits.”

DNR stated that the economics for issuing the permit outweighed the environmental costs. [RAM estimates](#) that the building of the terminal will create hundreds of construction jobs and up to 150 permanent positions. However some, [such as Ironton resident Rose Jackson](#), fear RAM will bring in outside employees for most of the jobs, therefore providing little economic value to the small communities in Plaquemines Parish.

In recent years, state, local, and federal officials have begun to recognize the wetlands' contributions to the region, leading to numerous coastal restoration projects, such as the effort in [Plaquemines Parish](#) to provide needed sediment to the wetlands and marshes of Barataria Bay. These natural coastal barriers serve as front line protection to local communities from hurricanes and sea level rise and provide critical habitat for important species of fish, reptiles, and marine mammals.

Just a [few months ago](#), advocates in Plaquemines Parish thought DNR would reject the permit application for another coal export terminal. However, on July 31, the state Coastal Protection and Restoration Authority, which oversees the state's coastal restoration efforts, reached [an agreement with RAM Terminals](#) regarding the operation of the facility, thus allowing DNR to issue a permit. The agreement set limits on the facility that would require it to stop operations during “Peak Operating Period” or when the Mississippi River is flowing at 600,000 cubic feet per second or more and carrying large amounts of sediment that will help rebuild the wetlands. The Gulf Restoration Network [expressed concerns about the agreement](#), indicating that “hydrological studies of the diversion have not yet been completed, and more operational flexibility may be needed.”

Potential negative effects of the siting are not limited to sedimentation concerns. During Hurricane Isaac in 2012, the [RAM property was flooded](#) and exposed heaps of [coal from nearby Kinder Morgan facilities were displaced](#) into the nearby wetlands. After the incident, deputy director of the Gulf Restoration Network [Aaron Viles commented](#) on the proposed

RAM Terminal calling location of the facility adjacent to a restoration project “a horrible idea.”

Protests over building new coal export facilities are not unique to Louisiana. In the [Pacific Northwest](#), opponents are turning out by the thousands and [major money](#) is being spent in campaigns to deter proposals to build coal export terminals shipping to China and Asian markets. And in the Gulf of Mexico another plan was scrapped earlier this year when [New Elk Coal Company](#) paid a one-time fee to cancel their lease.

The October permit approval means the RAM coal terminal has moved one step closer to construction, but it still needs a water quality permit from the state Department of Environmental Quality and a 404c “dredge and fill” permit from the Army Corps of Engineers before construction can proceed. The Army Corps decision in particular is lining up to be one of the first tests for a new federal mandate.

On November 1, President Obama signed [an executive order](#) directing federal agencies to coordinate on actions “necessary to make the Nation’s watersheds, natural resources, and ecosystems, and the communities and economies that depend on them, more resilient in the face of a changing climate.” The Army Corps will need to consider whether the proposed coal facility’s impact on the coastal restoration project and local air and water quality is consistent with the goal of making our communities more resilient to the impacts of climate change.

Local residents and the environment have already been subject to a litany of adverse impacts from the existing coal terminals in the area. The list of issues ranges from [health complications](#), such as asthma and respiratory problems, to [flooding](#) to [degraded ecosystems](#). “When you pollute the air and water in a community, you degrade the quality of life of the people living in it,” [says Bryan Ernst a local resident of Plaquemines Parish](#), “families in this area are committed to their communities. We love this place for its nature, for the fishing and wetlands. But the coal dust pollution is making our home unlivable. The last thing we want is another coal terminal moving in.”

*Kristan Uhlenbrock is the Associate Director for Ocean Communications at the Center for American Progress.*

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**Mike Roddy** · ★Top Commenter · Yucca Valley, California

Hell yes. Louisianans would explode dynamite in a city park if they thought there was a little oil there that would pool up.

Reply · 1 · Like · 10 hours ago



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**Colorado Bob** · ★Top Commenter

Kristan -

Here's fact for you , no one has ever done a study of the Gulf Coast looking at whether all the oil and gas production has added in the sinking of the coast line. Sink holes, marsh loss, salt domes failing, not one study has ever been funded to look at what 70 years of oil, brine, and gas production has done to the land falling , because we sucked all those geological juices from the bowels of the Earth.

Because every major university along the coast is training chemical, geological , oil & gas engineers.

Not once in over 70 years has anyone looked at whether sucking all these fluids and gas on and off the Gulf Coast makes the land sink.

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**Wesley Rolley** · ★Top Commenter · Works at Thankfully Retired

And with all of the weasel word justifications, there soon will be no part of the commons that has not been polluted for private gain... and at much cost to the public. I would think that those who talk so stridently about the high cost of government would come to realize that the pollution of the commons is one of the major causes. But those factors never make it into Forbes, or the WSJ, let alone Faux News.

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**Colorado Bob** · ★Top Commenter

Kristan -

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The Rolling Stones - The Under Assistant West Coast Promo Man.

<https://www.youtube.com/watch?v=dIfjozLGueU>

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**Colorado Bob** · ★Top Commenter

Here comes the bus , where's my dime ? I know I got dime somewhere.

Reply · Like · 12 hours ago



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Colorado Bob · ★Top Commenter

Kristan Uhlenbrock is the Associate Director for Ocean Communications at the Center for American Progress.

" I'm your Huckleberry " for months I've been whining for someone just like you.

Reply · Like · 16 hours ago



Colorado Bob · ★Top Commenter

I can list 10 different items tonight , but let's start with this :

Study to focus on Arctic after Greenland Sea found to have warmed 10 times faster than global ocean

Scientists have revealed plans to examine temperature changes in the Arctic Ocean after a long-term study found the Greenland Sea is warming 10 times faster than the global ocean.

Scientists from Germany's Alfred Wegener Institute (AWI) analysed temperature data from the Greenland Sea between 1950 and 2010.

Their results show that during the past 30 years water temperatures between two kilometres deep and the ocean floor have risen by 0.3 degrees Celsius.

Dr Raquel Somavilla Cabrillo, AWI scientist and lead author of the study, says researchers are surprised by the results.

"For a long time it was considered that the deep Arctic region was in a stationary state ...[but] much more than we thought is changing," she said.

<http://www.abc.net.au/news/2013-11-02/deep-greenland-sea-is-warming-ten-times-faster-than-global-ocean/5065856>

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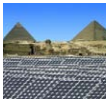
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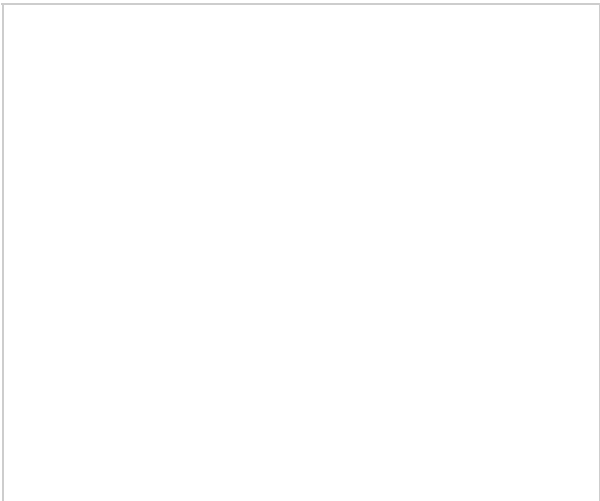
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Thursday, November 7, 2013

# EPA's abandoned Wyoming fracking study one retreat of many

By Abrahm Lustgarten

When the Environmental Protection Agency abruptly retreated on its multimillion-dollar investigation into water contamination in a central Wyoming natural gas field earlier this year, it shocked environmentalists and energy industry supporters alike.

In 2011, the agency had issued a blockbuster draft report saying that the controversial practice of fracking was to blame for the pollution of an aquifer deep below the town of Pavillion, Wyo. — the first time such a claim had been based on a scientific analysis.

The study drew heated criticism over its methodology and awaited a peer review that promised to settle the dispute. Now the EPA will instead hand the study over to the state of Wyoming, whose research will be funded by EnCana, the very drilling company whose wells may have caused the contamination.

Industry advocates say the EPA's turnabout reflects an overdue recognition that it had over-reached on fracking and that its science was critically flawed.

But environmentalists see an agency that is systematically disengaging from any research that could be perceived as questioning the safety of fracking or oil drilling, even as President Obama lays out a plan to combat climate change that rests heavily on the use of natural gas.

Over the past 15 months, they point out, the EPA has:

- Closed an investigation into groundwater pollution in Dimock, Pa., saying the level of contamination was below federal safety triggers.
- Abandoned its claim that a driller in Parker County, Texas, was responsible for methane gas bubbling up in residents' faucets, even though a geologist hired by the agency confirmed this finding.
- Sharply revised downward a 2010 estimate showing that leaking gas from wells and pipelines was contributing to climate change, crediting better pollution controls by the drilling industry even as other reports indicate the leaks may be larger than previously thought.
- Failed to enforce a statutory ban on using diesel fuel in fracking.



Photo by Joel Dyer  
Pavillion resident Louis Meeks

## YOUR SAY

- Renee:** The fact is hydraulic fracturing makes natural gas...
- Critical Thinking:** "Activists haven't come up with a credible explana..."
- Common Sense Boulder:** re: "Bull. YOU totally ignore the cost of the \$ \$ ..."
- Timothy Tipton:** The Intellect of these two Ladies CAN NOT be Denie...
- David Thielen:** I've got a short and evenhanded evaluation of 66 u...
- David Thielen:** I've got a more evenhanded view of 310 & 2E up...
- Gregory Iwan:** If every local anti-fracking measure passes, then ...

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massage**



"We're seeing a pattern that is of great concern," said Amy Mall, a senior policy analyst for the Natural Resources Defense Council in Washington. "They need to make sure that scientific investigations are thorough enough to ensure that the public is getting a full scientific explanation."

The EPA says that the string of decisions is not related, and the Pavillion matter will be resolved more quickly by state officials. The agency has maintained publicly that it remains committed to an ongoing national study of hydraulic fracturing, which it says will draw the definitive line on fracking's risks to water.

In private conversations, however, high-ranking agency officials acknowledge that fierce pressure from the drilling industry and its powerful allies on Capitol Hill — as well as financial constraints and a delicate policy balance sought by the White House — is squelching their ability to scrutinize not only the effects of oil and gas drilling, but other environmental protections as well.

Last year, the agency's budget was sliced 17 percent, to below 1998 levels. Sequestration forced further cuts, making research initiatives like the one in Pavillion harder to fund.

One reflection of the intense political spotlight on the agency: In May, Senate Republicans boycotted a vote on President Obama's nominee to head the EPA, Gina McCarthy, after asking her to answer more than 1,000 questions on regulatory and policy concerns, including energy.

The Pavillion study touched a particular nerve for Sen. James Inhofe, R-Okla., the former ranking member of the Senate Environment and Public Works committee.

According to correspondence obtained under the Freedom of Information Act, Inhofe demanded repeated briefings from EPA officials on fracking initiatives and barraged the agency with questions on its expenditures in Pavillion, down to how many dollars it paid a lab to check water samples for a particular contaminant.

He also wrote a letter to the EPA's top administrator calling a draft report that concluded fracking likely helped pollute Pavillion's drinking water "unsubstantiated" and pillorying it as part of an "Administration-wide effort to hinder and unnecessarily regulate hydraulic fracturing on the federal level." He called for the EPA's inspector general to open an investigation into the agency's actions related to fracking.

When the EPA announced it would end its research in Pavillion, Inhofe — whose office did not respond to questions from ProPublica — was quick to applaud.

"EPA thought it had a rock solid case linking groundwater contamination to hydraulic fracturing in Pavillion, WY, but we knew all along that the science was not there," Inhofe said in a press release issued the day of the announcement.

Others, however, wonder whether a gun-shy EPA is capable of answering the pressing question of whether the nation's natural gas boom will also bring a wave of environmental harm.

"The EPA has just put a 'kick me' sign on it," John Hanger, a Democratic candidate for governor in Pennsylvania and the former secretary of the state's Department of Environmental Protection, wrote on his blog in response to the EPA news about Pavillion. "Its critics from all quarters will now oblige."

• • • •

Before fracking became the subject of a high-stakes national debate, federal agencies appeared to be moving aggressively to study whether the drilling technique was connected to mounting complaints of water pollution and health problems near well sites nationwide.

As some states began to strengthen regulations for fracking, the federal government prepared to issue rules for how wells would be fracked on lands it directly controlled.

The EPA also launched prominent scientific studies in Texas, Wyoming and Pennsylvania, stepping into each case after residents voiced concerns that state environmental agencies had not properly examined problems.

The EPA probe in Pavillion began in 2008 with the aim of determining whether the town's water was safe to drink. The area was first drilled in 1960 and had been the site of extensive natural gas development since the 1990s. Starting at about the same time, residents had complained of physical ailments and said their drinking water was black and tasted of chemicals.

The EPA conducted four rounds of sampling, first testing the water from more than 40 homes and later drilling two deep wells to test water from layers of earth that chemicals from farming and old oil and gas waste pits were unlikely to reach.

The sampling revealed oil, methane, arsenic and metals including copper and vanadium — as well as other compounds — in shallow water wells. It also detected a trace of an obscure compound linked to materials used in fracking, called 2-butoxyethanol phosphate (2-BEp).

The deep-well tests showed benzene, at 50 times the level that is considered safe for people, as well as phenols —



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another dangerous human carcinogen — acetone, toluene, naphthalene and traces of diesel fuel, which seemed to show that man-made pollutants had found their way deep into the cracks of the earth. In all, EPA

detected 13 different compounds in the deep aquifer that it said were often used with hydraulic fracturing processes, including 2-Butoxyethanol, a close relation to the 2-BEP found near the surface.

The agency issued a draft report in 2011 stating that while some of the pollution in the shallow water wells was likely the result of seepage from old waste pits nearby, the array of chemicals found in the deep test wells was “the result of direct mixing of hydraulic fracturing fluids with ground water in the Pavillion gas field.”



EnCana owns the gas wells in Muddy Field that are suspected to have caused groundwater contamination in Pavillion. | Photo by Joel Dyer

The report triggered a hailstorm of criticism not only from the drilling industry, but from state oil and gas regulators, who disagreed with the EPA's interpretation of its data. They raised serious questions about the EPA's methodology and the materials they used, postulating that contaminants found in deep-well samples could have been put there by the agency itself in the testing process.

In response, the EPA agreed to more testing and repeatedly extended the comment period on its study, delaying the peer review process.

Agency officials insist their data was correct, but the EPA's decision to withdraw from Pavillion means the peer-review process won't go forward and the findings in the draft report will never become final.

“We stand by what our data said,” an EPA spokesperson told ProPublica after the June 20 announcement, “but I do think there is a difference between data and conclusions.”

Wyoming officials say they will launch another year-long investigation to reach their own conclusions about Pavillion's water.

Meanwhile, local residents remain suspended in a strange limbo.

While controversy has swirled around the deep well test results — and critics have hailed the agency's retreat as an admission that it could not defend its science — the shallow well contamination and waste pits have been all but forgotten.

The Agency for Toxic Substances and Disease Registry, the federal government's main agency for evaluating health risk from pollution, has advised Pavillion residents not to bathe, cook with, or drink the water flowing from their taps. Some have reported worsening health conditions they suspect are related to the pollution. They are being provided temporary drinking water from the state in large cisterns.

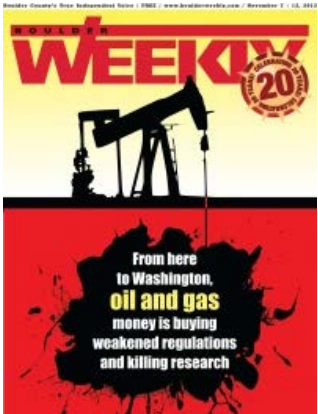
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The EPA opened its inquiry in Dimock, Pa., after residents provided it with private water tests detecting contaminants and complained that state regulators weren't doing enough to investigate the cause.

When an elderly woman's water well exploded on New Year's morning in 2009, Pennsylvania officials discovered pervasive methane contamination in the well water of 18 homes and linked it to bad casing and cementing in gas company wells. In 2010, they took a series of steps against the drilling company involved, citing it for regulatory violations, barring it from new drilling until it proved its wells would not leak and requiring it to temporarily supply water to affected homes.

But residents said state officials hadn't investigated whether the drilling was responsible for the chemicals in their water. The EPA stepped in to find out if residents could trust the water to be safe after the drilling company stopped bringing replacement supplies.

Starting in early 2012, federal officials tested water in more than five dozen homes for pollutants, finding hazardous levels of barium, arsenic and magnesium, all compounds that can occur naturally, and minute amounts of other contaminants, including several known to cause cancer.

Still, the concentration of pollutants was not high enough to exceed safe drinking water standards in most of the homes, the EPA found (in five homes, filtering systems were installed to address concerns). Moreover, none of the contaminants — except methane — pointed clearly to drilling. The EPA ended its investigation that July.

Critics pointed to the Dimock investigation as a classic example of the EPA being overly aggressive on fracking and then being proven wrong.

Yet, as in Pavillion, the agency concluded its inquiry without following through on the essential question of whether Dimock residents face an ongoing risk from too much methane, which is not considered unsafe to drink, but can produce fumes that lead to explosions.

The EPA also never addressed whether drilling — and perhaps the pressure of fracking — had contributed to moving methane up through cracks in the earth into their water wells.

As drilling has resumed in Dimock, so have reports of ongoing methane leaks. On June 24, the National Academy of Sciences published a report by Duke University researchers that underscored a link between the methane contamination in water in Dimock and across the Marcellus shale, and the gas wells being drilled deep below.

The gas industry maintains that methane is naturally occurring and, according to a response issued by the industry group Energy In Depth after the release of the Duke research, “there’s still no evidence of hydraulic fracturing fluids migrating from depth to contaminate aquifers.”

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In opening an inquiry in Parker County, Texas, in late 2010, the EPA examined a question similar to the one it faced in Dimock: Was a driller responsible for methane gas bubbling up in residents' water wells?

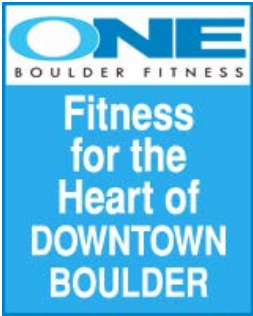
This time, though, tests conducted by a geologist hired by the agency appeared to confirm that the methane in the wells had resulted from drilling, rather than occurring naturally.

“The methane that was coming out of that well ... was about as close a match as you are going to find,” said the consultant, Geoffrey Thyne, a geochemist and expert in unconventional oil and gas who has been a member of both the EPA's Science Advisory Board for hydraulic fracturing and a National Research Council committee to examine coalbed methane development.



Gas wells in Pavillion, where residents say they have lost their sense of taste and smell. | Photo by Joel Dyer

The EPA issued an “imminent and substantial endangerment order” forcing Range Resources, the company it





suspected of being responsible, to take immediate action to address the contamination.

But once again, the EPA's actions ignited an explosive response from the oil and gas industry, and a sharp rebuke from Texas state officials, who insisted that their own data and analysis proved Range had done no harm.

According to the environmental news site Energy Wire, Ed Rendell, the former governor of Pennsylvania, whose law firm lobbies on behalf of energy companies, also took up Range's case with then-EPA Administrator Lisa Jackson.

Internal EPA emails used in the Energy Wire report and also obtained by ProPublica discuss Rendell's meeting with then-EPA Administrator Lisa Jackson, though Range has denied it employed Rendell to argue on its behalf. Neither the EPA nor Rendell responded to a request for comment on the Parker County case.

In March 2012, the EPA dropped its case against Range without explanation. Its administrator in Texas at the time had been assailed for making comments that seemed to show an anti-industry bias. He subsequently lost his job. An Associated Press investigation found that the EPA abandoned its inquiry after Range threatened not to cooperate with the EPA on its other drilling-related research.

Agency critics see a lack of will, rather than a lack of evidence, in the EPA's approach in Parker County and elsewhere.

"It would be one thing if these were isolated incidents," said Alan Septoff, communications director for Earthworks, an environmental group opposed to fracking. "But every time the EPA has come up with something damning, somehow, something magically has occurred to have them walk it back."

• • • •

So where does this leave the EPA's remaining research into the effects of fracking?

The agency has joined with the Department of Energy, U.S. Geological Survey and the Department of Interior to study the environmental risks of developing unconventional fuels such as shale gas, but those involved in the collaboration say that little has happened.

That leaves the EPA's highly anticipated national study on hydraulic fracturing.

When the EPA announced it was ending its research in Pavillion, it pointed to this study as a "major research program."

"The agency will look to the results of this program as the basis for its scientific conclusions and recommendations on hydraulic fracturing," it said in a statement issued in partnership with Wyoming Gov. Matt Mead.

That national study will concentrate on five case studies in Pennsylvania, Texas, North Dakota and Colorado.







It will not, however, focus on Pavillion or Parker County or Dimock.

Nor will it devote much attention to places like Sublette County, Wyo., where state and federal agencies have found both aquifer contamination and that drilling has caused dangerous levels of emissions and ozone pollution.

It will be a long time before the EPA's national study can inform the debate over fracking. While the agency has promised a draft by late 2014, it warned last month that no one should expect to read the final version before sometime in 2016, the last full year of President Obama's term.

Respond: [letters@boulderweekly.com](mailto:letters@boulderweekly.com)

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Daily News

Industry Cautions EPA Against Overreach In Existing Power Plant GHG Rule

Posted: November 7, 2013

Industry groups are broadly warning EPA not to go too far when it proposes a rule next year to set performance standards to limit greenhouse gases (GHGs) at existing power plants, with some telling agency officials at a Nov. 7 "listening session" in Washington, D.C., to avoid rules that stifle the coal industry.

"It is difficult to overstate the economic threat presented by these regulations, which together with other EPA rules could wipe out an entire industry -- something Congress surely never contemplated," Karen Harbert of the U.S. Chamber of Commerce's Institute for 21st Century Energy urged EPA in her [testimony](#). She also called on the agency to delay the deadlines President Obama set when he ordered the agency to craft the rule.

Others, like Howard Feldman of the American Petroleum Institute, warned EPA in his [testimony](#) that his group believes EPA lacks authority to craft the new source performance standard (NSPS) for existing plants, charging that it would set a precedent for similar unlawful regulations in other sectors, and that it could have immediate unintended spillover effects to cogeneration operations at refineries.

However, environmentalists and others speaking at the session urged the agency to set an ambitious regulatory program under section 111(d) of the Clean Air Act that can be expanded to other sectors.

For example, Mary Clemmensen of the Chesapeake Climate Action Network said in her [testimony](#) that EPA should reject industry's push to delay or set weak standards. This would "only shift the cost of carbon pollution onto the backs of local communities through increased health and climate adaptation costs."

The D.C. event is one of 11 listening session EPA is hosting across the country -- including two other Nov. 7 sessions in Seattle and Dallas -- to take input on its under-development NSPS to limit GHGs from the existing power fleet.

An EPA source says 183 people registered to speak at the D.C. event alone.

President Obama ordered the agency to craft the rule, setting a June 2014 deadline for the agency to propose the measure with a final rule due one year later. Since the order was issued, agency officials have emphasized that they plan to issue an emissions guideline, after which states craft plans similar to state implementation plans to comply.

EPA has said it plans to provide significant flexibility to states, though agency officials have said that any emissions cuts must be traceable back to power plants, raising doubts about how much flexibility they may be able to provide.

But EPA faces a host of [legal obstacles](#) in finalizing a rule regardless of the type of program the agency ends up backing.

Industry Concerns

While much of the testimony presented to the listening sessions was largely supportive of EPA's effort to develop the NSPS rules for existing power plants, several powerful industry groups cautioned the agency against overreaching.

For example, attorney Scott Segal, representing the Electric Reliability Coordinating Council and the Council of Industrial Boiler Owners, warned in his [testimony](#) that section 111(d) "does not give EPA the authority to regulate existing sources" but instead "only authorizes EPA to develop emission guidelines for states to use in establishing" their own standards.

Segal said he worries "that EPA promises of flexibility and cooperative federalism elsewhere in recent Clean Air Act programs -- from interstate concerns to haze to the [national ambient air quality standards] and air toxics rules -- have been severely lacking and do not make us confident that EPA will do better this time around," despite agency promises for great state flexibilities.

Additionally, the Chamber's Harbert urged EPA in her testimony to slow its time frame on the rule. Instead, Harbert said EPA "should commit to ensuring that its greenhouse gas rulemaking process will allow sufficient time to consider and respond to relevant agency, stakeholder, and public reactions to the forthcoming Supreme

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Court decision on EPA's GHG regulatory authority, which is also expected in June 2014." She said the "arbitrary" time line Obama set to complete the rules was "extremely troubling."

Similarly, Greg Bertelsen of the National Association of Manufacturers said in his [testimony](#) that EPA must not seek to expand its rule "beyond what the law allows" and to recognize "there are limits to what is achievable."

Toby Short, a top Duke Energy Corp. official, said in his [testimony](#) that EPA should first issue an advance notice of proposed rulemaking rather than a proposed rule due to "the importance of this groundbreaking rulemaking" and the need for additional time to get it right.

Additionally, he noted any rule should "preserve the billions of dollars our customers have already invested in our coal-fired generation units by not forcing their premature retirement." Duke has invested \$7.5 billion in upgrades for air quality controls since 1999 and \$9 billion in investments in state-of-the-art facilities, along with the retirement of 6,800 megawatts of older coal units. Duke has already reduced GHG emissions by 21 percent between 2005 and 2012, he noted. Byron Burrows of Tampa Electric Company made a similar plea.

Lorraine Gershman of the American Chemistry Council urged EPA in her [testimony](#) to "account for energy efficiency gains and how to translate them into [carbon dioxide] reductions" because efficiency gains "are one of the easiest and most cost-effective ways" to cut emissions.

But Allison Wood, representing the Utility Air Regulatory Group, said in her [testimony](#) that EPA lacks flexibility in setting the NSPS and can only impose limits on individual sources that are "achievable through the use of adequately demonstrated on-site technology by individual power plants and cannot merely reflect the overall performance of the entire 'system' of power plants."

The Business Council for Sustainable Energy in a [statement](#) laid out guidelines it wants EPA to follow, including providing a set of options for states that support clean energy technologies; recognizing existing clean energy programs; allowing for more states to pursue more stringent standards; using a system-wide approach; and adopting "full fuel-cycle analyses that acknowledge the benefits of direct use of natural gas."

Environmentalists Respond

However, environmental groups were out in force in support of the EPA rules with the Sierra Club, Moms Clean Air Force, National Wildlife Federation, League of Conservation Voters, Natural Resources Defense Council (NRDC) and others leading a rally to the EPA listening session.

Speaking in favor of ambitious EPA carbon rules for existing facilities was Peter Heisler of the Environmental Defense Fund who said in his [testimony](#) that it is "unacceptable that there are no national limits on the climate-destabilizing pollution emitted by power plants."

NRDC's David Doniger [testified](#) on additional flexibilities contained in the NSPS proposal his group floated last year, including that it could allow states to choose whether to regulate on a rate-based or mass-based standard.

Bill Snape of the Center for Biological Diversity warned EPA in his [testimony](#) that the agency's September NSPS proposal for new power plants falls short by failing to require natural gas facilities to cut emissions. "The anticipated June 2014 proposal for existing power plants gives the administration a perfect chance to get it right. Bear down on the dirtiest power plants. End the subsidies to fossil fuels that number in the multiple billions of dollars every year."

He also noted that his group presented municipal resolutions from 74 cities asking EPA to take ambitious action on its pending rules at the listening session.

EPA has drawn criticism from Republican lawmakers and others for not holding the listening sessions in [areas whose economies are heavily reliant on coal](#).

Along that vein, Laura Sheehan of the American Coalition for Clean Coal Electricity said in a [statement](#) on the eve of the D.C. session, "Members of Congress, state governors, public officials and other stakeholders have tirelessly urged EPA to host listening sessions in their coal-reliant states, but as the listening session tour concludes, it is increasingly clear EPA never wanted to listen in the first place."

But NRDC's Peter Altman [testified](#) that the agency is holding its sessions in five of the top 11 states for coal-based electricity generation, including Texas, Pennsylvania, Illinois, Georgia and Colorado. -- Dawn Reeves ( [dreeves@iwpnews.com](mailto:dreeves@iwpnews.com) )

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Inside EPA - 11/08/2013

## Facing Inaction By Congress, Oklahoma AG Turns To Courts To Curb EPA

Posted: November 6, 2013

Oklahoma Attorney General Scott Pruitt, a vocal critic of EPA on several fronts, is using litigation to attempt to curtail the agency's actions as Congress has stalled on some of his priority measures, such as easing states' ability to intervene in some court settlements setting deadlines for EPA rules and curbing regulation of greenhouse gases (GHGs).

Pruitt, elected in 2010 as only the second Republican in the state's history to hold the office, has filed lawsuits on both the "sue-and-settle" and GHG issues, as well as on EPA's role in implementing regional haze emissions cuts.

"The judicial process is the right way to go," he said in a recent interview with *Inside EPA*, citing the regional haze suit that he said would allow states to "enforce the right granted to them by statute and to scale back EPA's aggressive view of what they think their role is."

Perhaps Pruitt's most high-profile effort to curtail EPA's statutory authority is his attempt to limit the agency's GHG program. Together with several other state attorneys general (AGs), Pruitt joined Texas in a partially successful petition asking the Supreme Court to review several aspects of EPA's program.

The high court announced last month that it will consider one issue -- "Whether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit greenhouse gases."

But the justices let stand the agency's endangerment finding, its vehicle GHG rules and several other matters and declined a request from the states to review the court's 2007 ruling in *Massachusetts v. EPA* that concluded that the gases are "pollutants" subject to regulation under the Clean Air Act.

Even so, Pruitt said he is encouraged the court is willing to review EPA's authority in some form. "Many interpret that decision [*Massachusetts*] as being a license to regulate greenhouse gases that has no boundary," he said. "The court addressing that issue, even in a narrower way, gives them an opportunity to provide some measure of boundary and instruction to EPA as they deal with those issues."

He declined to say how a ruling against EPA might affect the agency's controversial new source performance standards (NSPS) for existing and future power plants, which are the centerpiece of President Obama's second-term Climate Action Plan.

"Predictions are pretty tough, particularly about the future," he said, quoting Yogi Berra. "To speculate about what the court may or may not do in this case is extremely difficult."

But there appears to be a consensus forming that the court's ruling in the case should not have any major legal or regulatory implications for the utility NSPS, largely because the basis of those rules is the agency's 2009 finding that GHGs endanger human health, not from the air law's permitting mandates at issue in the pending case.

**Pruitt, a former state senator who mounted unsuccessful bids for Congress and lieutenant governor**, has been a key figure in seeking to win the right for states to intervene in so-called "sue-and-settle" lawsuits, where environmentalists generally sue the agency to enforce statutory deadlines.

Industry and states have so far struggled to intervene in such suits because courts have held that they cannot demonstrate injury from a deadline agreement. For example, a federal judge in an Oct. 9 order denied a request from industry groups to intervene in environmentalists' suit seeking a court-ordered deadline for EPA to review its air quality standard for ozone.

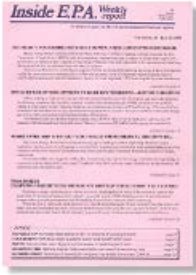

Lawmakers have filed companion bills aimed at easing states' and industry's ability to intervene in such suits. Both the House bill, H.R. 1493, and the Senate version, S. 714, have not attracted any Democratic co-sponsors. The House bill cleared the Judiciary Committee on a party-line 17-12 vote in July, though the legislation's prospects in the Senate are more uncertain.

To address the issue, Pruitt has led several other state AGs in seeking access under the Freedom of Information Act (FOIA) to EPA documents they hope will help them overcome the procedural hurdles that have stymied their

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efforts so far.

They hope the documents show collaboration between EPA and environmental groups on consent decrees that resolve lawsuits trying to force development of rulemakings, and have filed a pending complaint in the U.S. District Court for the Western District of Oklahoma to enforce their FOIA request. If the documents show some level of collusion, he said, "I think it could form the basis of a challenge. That is something we would have to review depending upon the type of collaboration or coordination that occurred."

Pruitt said that if environmental groups coordinated with EPA on lawsuits that transformed a discretionary duty into a mandatory duty or accelerated a regulatory timeline, and the resulting regulation placed obligations on states, "then due process is being compromised."

"We're not there yet," he said of such a potential due process challenge. "But it's absolutely right for us to be able to review the documents to see if [collusion occurred]."

Pruitt said he is not seeking to entirely ban the use of consent decrees, but is instead concerned about using the practice in an "abusive fashion" to approve regulations outside of the traditional process.

"The best antidote is to make sure it's not what we fear it is, the equivalent of the friendly lawsuit," Pruitt said. "That's something that, if it is occurring, it definitely needs to be addressed. And it can be, even without Congress acting. [The lawsuit] allows us to take judicial steps, either in revisiting consent decrees or initiating new litigation."

**The "sue-and-settle" issue is important for Pruitt and others in part** because the settlements drive new regulatory requirements. For example, EPA and environmentalists in 2011 agreed to a series of legally binding deadlines for the agency to make decisions on 43 long-overdue state implementation plans (SIPs), including Oklahoma's, for complying with the agency's regional haze program -- with the threat of EPA imposing federal emissions reduction requirements on states where the agency rejects a SIP.

In Oklahoma's case, that has resulted in EPA imposing federal requirements, forcing some power generators to have to install strict controls to reduce haze-forming emissions in national parks and wilderness areas.

But Pruitt has struggled to overturn EPA's plan. The U.S. Court of Appeals for the 10th Circuit ruled 2-1 in July that EPA had the discretion to reject Oklahoma's SIP. And the full 10th Circuit Oct. 31 declined requests from Pruitt and others to reconsider the ruling.

The 8th Circuit has also recently backed the 10th Circuit's stance.

Pruitt in a statement said the state is still considering "next steps," which could include appealing the case to the Supreme Court. In the meantime, he is separately asking EPA to reject the state's latest SIP, which was crafted under the direction of Oklahoma Gov. Mary Fallin (R).

The latest plan would allow the Public Service Company of Oklahoma to avoid installing expensive sulfur scrubbers but would aim to retire two coal-fired power plants by 2026. Pruitt in Sept. 19 comments argues the state did not account for the costs of replacement electricity that will be required as the coal-fired units retire.

His office earlier told *Inside EPA* that the latest request to the agency is not in conflict with his appeals court stance because Pruitt is not asking EPA to second-guess the state's determination but rather is arguing the cost-benefit analysis is incomplete.

Pruitt in the recent interview said EPA rejected SIPs for Oklahoma and other states "largely because they don't like the fuel diversity that's being maintained in those plans."

"They're a regulatory agency. They're not intended to be punitive or a diviner of what is best from coal to natural gas to renewables," he said. "From a state level, when we see statutes being utilized in a way to achieve that end, we're defending our position because we have to." -- *Lee Logan*

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## 9. WATER POLLUTION:

### EPA should accept recent CAFO stormwater ruling -- Vitter

Amanda Peterka, E&E reporter

*Published: Wednesday, November 6, 2013*

U.S. EPA should accept a recent federal court decision that found it could not regulate stormwater runoff stemming from a poultry operation in West Virginia, the Senate Environment and Public Works Committee's top Republican told the agency yesterday.

Sen. David Vitter (La.) is also demanding that the agency formally direct all its personnel to cease any efforts across the country to require farmers to obtain permits for stormwater discharges. The court ruled that the runoff from the West Virginia concentrated animal feeding operation fell under a Clean Water Act exemption for agricultural stormwater discharge.

"It's clear that EPA had no business subjecting this poultry farmer to a bureaucratic maze of federal regulation. This is just another attempt from EPA to expand its regulatory powers," Vitter said in a statement. "Following the court decision, I hope EPA will reconsider its CWA enforcement priorities and nationally implement the decision's analysis of the CWA."

Lois Alt, owner of the Eight Is Enough poultry farm in Old Fields, W.Va., filed the lawsuit last year after EPA issued a compliance order for stormwater runoff that it determined to be coming from her CAFO. EPA said dust and manure from the operation's eight poultry confinement houses had settled on the farmyard and had been exposed to precipitation, leading to runoff into local waterways.

In court filings, Alt argued she maintained best-management practices and took steps to reduce the amount of manure and litter that would be exposed to rain and snow. She argued the operation didn't require a Clean Water Act permit for the runoff because the law explicitly exempts agricultural stormwater discharge from regulation.

In his ruling, Judge John Bailey in the U.S. District Court for the Northern District of West Virginia found that "common sense and plain English lead to the inescapable conclusion that Ms. Alt's poultry operation is 'agricultural' in nature and that the precipitation-caused runoff from her farmyard is 'stormwater'" ([Greenwire](#), Oct. 24).

In a letter to EPA yesterday, Vitter accused EPA of bullying farmers like Alt with the threat of fines if they do not obtain permits. Vitter, who has long been critical of the agency's implementation of the Clean Water Act, said the recent decision highlighted it was "time the agency reconsider its CWA enforcement priorities."

If EPA does not accept the ruling, the agency should transparently "file an appeal so that farmers know precisely where EPA stands with respect to the court's decision," Vitter said.

While farm groups cheered the ruling, environmental organizations that intervened in the lawsuit said they were "deeply concerned" that the decision would make it more difficult to address water pollution across the country.

"The court's decision, if it stands, could have devastating impacts on the health of our rivers, streams and lakes

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and our communities," Potomac Riverkeeper, West Virginia Rivers Coalition, Waterkeeper Alliance, the Center for Food Safety, Food and Water Watch, and Earthjustice said in a joint statement. "Moving forward, we will be considering all of our legal options."

In a statement after the ruling, EPA said only that the agency and Justice Department were reviewing the court's decision.

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upwind states.

Green groups and the EPA saw the Supreme Court's June decision to take up the case as a sign of hope that the rules could be reinstated.

The high court is scheduled to hear oral arguments on the case on December 10. It should issue a decision by next summer.

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# The EPA coal war comes to Dallas



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Residents from towns with **Luminant** coal plants flocked to the J. Erik Jonsson Central Library Thursday to plead with the **Environmental Protection Agency** not to impose regulations that would shut down the mining and plant operations.

On the other side, activists from Climate Action Now also packed the meeting chambers to urge the EPA to move forward with pollution controls for coal plants. They

emphasized that the Dallas-Fort Worth region is [classified as moderate non-attainment area for pollutant ozone](#) under the 2008 National Ambient Air Quality Standards.

The EPA is conducting similar public hearings around the country to get feedback on proposed regulations that industry experts say would be impossible for existing coal plants to reach with current technology.

"The economic issues for the power industry and Luminant in particular for our area, is very, very critical," said [Bob Wilson](#), branch president of the **Citizens National Bank** in Rockdale, where Luminant has a 1,137 megawatt Sandow coal plant "That's jobs. That's people. They're real and we need help in that area."

Speakers in favor of the tougher restrictions say coal is outdated and should be replaced with newer, cleaner technologies.

That includes Dallas resident [Maridel Hoagland](#), who said money and jobs won't matter if Texas runs out of clean air and water.

"The coal industry has served its time," she said. "There isn't a 50/50 making every body happy. Please, I emphasize, put on strict rules. Keep our air as clean as possible because we are running out of time."

[Chris Masey](#) spoke on behalf of the Texas Physicians for Social Responsibility, saying pollution is causing a range of health issues, including asthma and stroke.

"It's a public healthcare issue," he said. "We know Texas has a serious air quality problem."

[Faustine Curry](#), CEO of the Mount Pleasant/Titus County Chamber of Commerce, took issue with speakers pushing for coal plant closures.

"Those companies do care about the environment," Curry said. "They make it look beautiful in our area. They are constantly working on ways to make the plants better.

Luminant is in a battle of its own with the **U.S. Department of Justice**, who is [suing the Dallas-based power producer over violations of the Clean Air Act related to coal plants in East Texas](#). Luminant filed a motion to stay the lawsuit until a lower court reviews the case.

[Marc Rodriguez](#), chairman of the board for the **United States Hispanic Chamber of Commerce**, said the EPA should take a balanced approach when developing the new regulations and consider all the consequences. Taking coal plants out of the equation would cause electricity prices to rise, which would hurt homeowners and business owners, including Hispanic-owned entrepreneurs.

"Any carbon rules must be fair, attainable and adequate in order to bridge the gap as we go forward using advanced technologies," he said.



The Environmental Protection Agency had a public hearing Thursday in Dallas to get feedback on proposed regulations that on carbon emissions.

Texas Attorney General [Greg Abbott](#) and Gov. [Rick Perry](#) have been [battling the EPA over air regulations for several years](#).

Nicholas covers the energy and banking beats for the Dallas Business Journal. [Subscribe the Energy Inc. newsletter](#)

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